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6 Susan Shalov

FILED
10 MAR -4 PM 1:47
CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
BY: *mtb* DEPUTY

7
8 UNITED STATES DISTRICT COURT
9 FOR THE SOUTHERN DISTRICT OF CALIFORNIA

10 SUSAN SHALOV,

11 Plaintiff,

12 vs.

13 MARK LANE; CAPITOL MOTION
14 PICTURES, LLC; FULLY ATTIRED FILM
15 GROUP, LLC; FULLY ATTIRED FILM
16 GROUP, LP; FULL CIRCLE
17 PRODUCTIONS, LP; and DOES 1-50,
18 inclusive,

19 Defendants.

No. **10CV 0474 H** **AJB**
)
) COMPLAINT FOR BREACH OF
) CONTRACT, CONVERSION, UNJUST
) ENRICHMENT, FRAUD AND DECEIT
)
)
)
)
)
)
)

20
21 Plaintiff alleges:

22
23 **JURISDICTION AND VENUE**

- 24
25 1. Jurisdiction is based on 28 U.S.C. § 1332(a).
26 2. Venue is based on 28 U.S.C. § 1391(a)(2) in that a substantial part of the events
27 or omissions giving rise to the claim occurred in this District, or a substantial part of property
28 that is the subject of the action is situated in this District.

CR

PARTIES

3. Each of the above paragraphs are re-alleged and herein incorporated by reference.

4. Plaintiff SUSAN SHALOV is an individual residing in Las Vegas, Nevada.

5. Defendant MARK LANE is an individual residing in Austin, Texas.

6. Defendant CAPITOL MOTION PICTURES, LLC, is a limited liability company based in Austin, Texas and is controlled by defendant LANE.

7. Defendant FULLY ATTIRED FILM GROUP, LLC, is a limited liability company based in Irvine, California and is controlled by defendant LANE.

8. Defendant FULLY ATTIRED FILM GROUP, LP, is a limited liability partnership based in Northridge, California and is controlled by defendant LANE.

9. Defendant FULL CIRCLE PRODUCTIONS, LP, is a limited liability partnership based in Northridge, California and is controlled by defendant LANE.

10. Plaintiff is ignorant of the true names and capacities of the Defendants sued herein as DOES 1 through 50, inclusive, and therefore sues these Defendants by such fictitious names. Plaintiff will amend this Complaint to allege their true names and capacities when such are ascertained. Plaintiff is informed and believes and thereon alleges that each of the fictitiously named Defendants is responsible in some manner for the occurrences herein alleged and that Plaintiff's damages as herein alleged were proximately caused by said DOE Defendants' acts or omissions.

11. At all times herein mentioned each of the Defendants, including the Defendants named as DOE herein, was the agent and/or employee of each of the remaining Defendants and in doing the things mentioned herein was acting within the scope of such agency and/or employment.

FIRST CAUSE OF ACTION

(Breach of Contract)

12. Each of the above paragraphs are re-alleged and herein incorporated by reference.

1 13. On April 2, 2006, Plaintiff wrote a check for \$45,000 to Defendant FULLY
2 ATTIRED FILM GROUP, LP as a loan.

3 14. On June 5, 2006, Plaintiff wrote a check for an additional \$30,000 to Defendant
4 FULLY ATTIRED FILM GROUP, LP as an additional loan.

5 15. On June 22, 2009, Defendant LANE wrote to First Regional Bank in Carlsbad,
6 California asking the bank to change Plaintiff's Roth IRA account to read "Fully Attired Film
7 Group LLC," so that LANE could control the account.

8 16. Defendants promised to invest Plaintiff's money to obtain large returns in movie
9 production.

10 17. Defendants never performed their end of the contract and instead misappropriated
11 the funds. In total, Defendants now owe Plaintiff over \$177,000 that has not been paid back.

12
13 **SECOND CAUSE OF ACTION**

14 **(Conversion)**

15 18. Each of the above paragraphs are re-alleged and herein incorporated by reference.

16 19. Defendants have misappropriated and converted to their own personal use and
17 possession, without Plaintiff's consent, Plaintiff's money.

18 20. As a result of Defendants' willful and malicious actions, Plaintiff has been
19 deprived of the use of her money, and an award of punitive damages is appropriate.

20
21 **THIRD CAUSE OF ACTION**

22 **(Unjust enrichment against all Defendants)**

23 21. Each of the above paragraphs are re-alleged and herein incorporated by reference.

24 22. Defendants have been unjustly enriched in the amount of \$177,000 plus interest.

25
26 **FOURTH CAUSE OF ACTION**

27 **(Fraud and deceit against all Defendants)**

28 23. Each of the above paragraphs are re-alleged and herein incorporated by reference.

1 24. Defendants made false representations and concealed material facts susceptible of
2 knowledge, made with knowledge of their falsity or without sufficient knowledge on the subject
3 to warrant a representation, and with the intent to induce Plaintiff to act on it:

4 25. Based on these false representations and concealment of material facts, Plaintiff
5 transferred over \$177,000 to Defendants and received nothing in return.

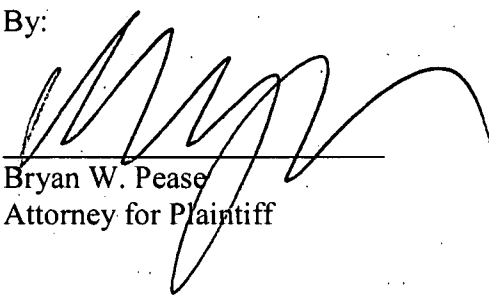
6 26. An award of punitive damages is appropriate due to Defendants' willful and
7 malicious fraud and deceit.

8
9
10 WHEREFORE, Plaintiff prays for judgment against Defendants, and each of them, as follows:

- 11 1. For compensatory damages of \$177,000;
12 2. For exemplary or punitive damages according to proof;
13 3. For Plaintiff's cost of suit herein;
14 4. For interest and attorney's fees according to proof;
15 5. For such other and further relief as the Court may deem just and proper.

16
17 Dated: March 4, 2010

18 By:

19 
20 _____
21 Bryan W. Pease
22 Attorney for Plaintiff
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JS 44 (Rev. 12/07)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

(b) County of Residence of First Listed Plaintiff Clark County, NV
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

DEFENDANTS

County of Residence of First Listed Defendant U.S. Travis County, TX
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

10CV 0474 H

DEPUTY
AJB

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
☐ 2 U.S. Government Defendant
☐ 3 Federal Question (U.S. Government Not a Party)
☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- Citizen of This State ☐ 1 ☐ 1 Incorporated or Principal Place of Business In This State
Citizen of Another State ☒ 2 ☒ 2 Incorporated and Principal Place of Business In Another State
Citizen or Subject of a Foreign Country ☐ 3 ☐ 3 Foreign Nation ☐ 4 ☐ 4 ☐ 5 ☒ 5 ☐ 6 ☐ 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input checked="" type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWW/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609
				<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes

V. ORIGIN

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
☐ 2 Removed from State Court
☐ 3 Remanded from Appellate Court
☐ 4 Reinstated or Reopened
☐ 5 Transferred from another district (specify)
☐ 6 Multidistrict Litigation
☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
28 USC 1332(a)

Brief description of cause:
fraud, breach of contract, misappropriation of funds

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23
 DEMAND \$ 177,000.00

CHECK YES only if demanded in complaint:
 JURY DEMAND: ☐ Yes ☒ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

03/03/2010

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #

10804

AMOUNT

\$350

APPLYING IFP

JUDGE

MAG. JUDGE

MB 03-04-10

Court Name: USDC California Southern
Division: 3
Receipt Number: CAS010804
Cashier ID: mbain
Transaction Date: 03/04/2010
Payer Name: BRYAN W PEASE INC

CIVIL FILING FEE
For: BRYAN W PEASE INC
Case/Party: D-CAS-3-10-CV-000474-001
Amount: \$350.00

CHECK
Check/Money Order Num: 204
Amt Tendered: \$350.00

Total Due: \$350.00
Total Tendered: \$350.00
Change Amt: \$0.00

There will be a fee of \$45.00
charged for any returned check.